

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**IN RE: BLUE CROSS BLUE SHIELD  
ANTITRUST LITIGATION  
(MDL No. 2406)**

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**Master File No. 2:13-CV-20000-RDP**

**This document relates to all cases.**

**ORDER**

This matter is before the court on Plaintiffs' Motion for Oral Argument on Defendants' Motion for Certification under 28 U.S.C. § 1292(b). (Doc. # 2157). The court will take the motion under advisement subject to the following briefing.


In relation to the underlying Motion for Certification (Doc. # 2085), **on or before May 24, 2018**, the parties **SHALL** each file a report, limited to twenty pages, addressing in detail what issues (evidentiary or legal) in their class certification motions or responses should be differently analyzed if the court, contrary to its rulings previously, were to apply (1) the rule of reason standard of review to Plaintiffs' claims regarding the aggregation of ESAs and National Best Efforts or (2) the per se standard of review to Plaintiffs claims regarding Blue Card.<sup>1</sup>

The Clerk of the Court is directed to **ADMINISTRATIVELY TERMINATE** Plaintiffs' Motion for Oral Argument. (Doc. # 2157).

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<sup>1</sup> The court notes that the parties have already acknowledged that the standard of review will affect the court's Rule 23 analysis. "I also think that while some of the arguments made may be affected by the standard of review..." (Doc. # 2110 at 25). "I think that the discussion of class certification is going to be informed by the Court's rulings on standard of review. I don't think there's any doubt that there will be arguments that both sides will make that will be affected by what the standard of review is." (Doc. # 1469 at 6).

**DONE** and **ORDERED** this May 9, 2018.



**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE